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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:)	23-01129-mkn
TERESA RENITA BURWELL,)	
Debtor,)	Adversary Proceeding
)	
TERESA RENITA BURWELL)	MOTION TO DISMISS
Plaintiff,)	
)	
SIGNATURE REAL ESTATE)	
GROUP, SOUTHERN NEVADA)	Hearing Date: December 6, 2023
EVICTION SERVICES, ET AL,)	Hearing Time: 9:30 a.m.
Defendants)	

Defendant, Southern Nevada Eviction Services (hereinafter “SNES”), hereby moves this Court to dismiss this Adversary Proceeding pursuant FRBP 5005(a) and 7003. Plaintiff has filed this Adversary Proceeding without a corresponding Bankruptcy proceeding; as such, there is no basis of relief for Plaintiff to have. This motion is supported by the attached Memorandum of Points and Authorities and any testimony the court may entertain.

FACTUAL BACKGROUND

On May 22, 2023, at 3:46 p.m., Plaintiff filed her Chapter 13 bankruptcy with this Court, case no. 23-12054-mkn, only one hour and twenty-four minutes after an Order for Summary Eviction was issued against her in Las Vegas Justice Court. On August 1, 2023, the U.S. Trustee filed a Motion to Dismiss Plaintiff's Chapter 13 Bankruptcy, pursuant to 11 U.S.C. § 1307(c)(1), (3), and (4), and Plaintiff's deficiencies. On September 6, 2023, this Court granted the Trustee's Motion to Dismiss, and filed the Notice of Dismissal on the same day. Plaintiff did not file her Adversary Complaint until September 20, 2023, two weeks after the dismissal of her Chapter 13 Bankruptcy. Plaintiff, prior to the filing of her Adversary Complaint, had no pending Bankruptcy matters.

The Adversary Proceeding Must be Dismissed

The Adversary Proceeding initiated by Plaintiff must be dismissed. Federal Rules of Bankruptcy Procedure 7003 states as follows:

Rule 3 F.R.Civ.P. applies in adversary proceedings.

Notes of Advisory Committee on Rules – 1983

Rule 5005(a) requires that the complaint commencing an adversary proceeding be filed with the court in which the *case under the Code is pending* unless 28 U.S.C.

§ 1473 authorizes the filing of the complaint in another district. (emphasis added).

Adversary Proceedings are matters that are ancillary to pending Bankruptcy cases. Here, Plaintiff's underlying bankruptcy case was dismissed two weeks prior to the filing of her Adversary Complaint. As such, there is no basis upon which Plaintiff can bring her claims against the Defendants. This Court must dismiss this matter.

CONCLUSION

Plaintiff filed her Adversary Complaint after the dismissal of her bankruptcy. The Federal Rules of Bankruptcy Procedure dictate that any claim must be raised in the corresponding jurisdiction of a *pending* bankruptcy case. Plaintiff is barred from raising her claims, as there is no pending bankruptcy case. The Court must dismiss this matter.

WHEREFORE, SNES respectfully prays that this Honorable Court:

1. Dismiss the Adversary Proceeding; and
2. Grant SNES any additional relief as the Court deems appropriate.

DATED this 2nd day of November 2023

RESPECTFULLY SUBMITTED:

/s/ Dylan Hansel
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CERTIFICATE OF SERVICE

On November 2, 2023, I duly served the following documents:

- MOTION TO DISMISS

Via the Court's Electronic Filing System to all listed parties receiving notice pursuant to the Court's CM/ECF system.

**I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
AND CORRECT.**

DATED: November 2, 2023

/s/ Dylan Hansel
Attorney for Creditor